

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

929 CONT. PETITION NO.203 OF 2022
IN WP/2421/2022

MADHAVRAO HANMANTRAO PATIL TAKLIKAR
VERSUS
HEERA KASHINATH SHELKE AND ANOTHER

...

Advocate for Petitioner : Mr. N.P. Patil-Jamalpurkar
AGP for Respondent 1 : Mr. S. B. Yawalkar
Advocate for Respondent 2 : Mr. V. D. Salunke

...

**CORAM : R. D. DHANUKA &
S.G. MEHARE, JJ.**

DATED : 27/04/2022.

PER COURT :

1. By this contempt petition, the petitioner seeks initiation of action under the provisions of Contempt of Courts Act, 1971, against the respondent No. 1 for alleged contempt of the order dated 14th March 2022 passed by this Court in Writ Petition No. 2124/2022.

2. On 14th March 2022 this Court in Writ Petition No. 2431/2022 filed by the petitioner after interpreting section 22(2) of the Maharashtra Public Trust Act, 1950, held that the Deputy or Assistant Charity Commissioner is empowered to pass an order provisionally accepting the change report within 15 working days and thereafter issue a notice inviting objections to such change within 30

days from the date of publication of such notice. The respondent, however, has not provisionally accepted the change submitted by the petitioner within a period of 15 days from the date of submission of the said report or even thereafter till date. This Court accordingly directed the respondent to provisionally accept the said change report submitted by the petitioner on 29.9.2021 under section 22(2) within two weeks from the date of said order and to take further steps as contemplated under section 22 (2) and (3) within the time contemplated under the said provision.

3. While passing order, this Court made it clear that this Court did not express any view on the merits of the maintainability of the said change report submitted by the petitioner or on its merits keeping all the contentions of the parties expressly open.

4. Mr. Manmathappa Pandabappa Lokhande filed Review Application (Civil) No. 96/2022 in the said Writ Petition No. 2421/2022 *inter alia* praying for recalling of the said order dated 14th March 2022 passed by this Court on various grounds. The matter was argued at length by the learned counsel for review petitioner. This Court while rejecting the said review application made it clear that, while passing order dated 14th March 2022, this Court had simplicitor

directed the respondent to provisionally accept the said change report submitted by the petitioner on 29th September 2021 under section 22 (2) of the Act within two weeks from the date of said order and directed to take further steps as contemplated under the said provisions within the time contemplated under the said provision. This Court further made it clear that this Court has not expressed any view on the merits of the maintainability of the said change report submitted by the petitioner or on its merits by keeping all contentions of the parties expressly open.

5. In para 12 of the said order on review application, this Court made it clear that if the review petitioner seeks to file any objection pursuant to the objections that would be invited by the respondent under section 22 (2) of the Act, the petitioner would be at liberty to file such objection within the time prescribed for filing such objection by the petitioner and all other persons interested, who are entitled to raise such objection. This Court directed the Deputy Charity Commissioner to decide the said objections, in accordance with law.

6. In para 13 of the said order, this Court made it clear that the request of the learned counsel for petitioner that the review petitioner be granted an opportunity to apply for vacating the

provisional acceptance of the said report submitted by the petitioner is without any substance. This Court made it clear that if the authority is not satisfied with the objections that would be raised by the parties interested including the petitioner, the provisional acceptance of the change report under section 22 (2) of the Act would be accordingly modified.

7. Pursuant to the said order passed by this Court, the learned Deputy Charity Commissioner passed order on 29th March 2022. A perusal of the said order indicates that after making various observations about the stand of both the parties, the Deputy Charity Commissioner observed that at that stage it was not proper to accept the change report provisionally and therefore, disposed of the said application at Exh. 13 in Change Report No. 596/2021 filed for provisional acceptance. Deputy Charity Commissioner directed the parties to proceed with the matter for speedy disposal of the the case within three months accordingly.

8. Petitioner in writ petition and petitioner in contempt petition filed this contempt petition *interalia* praying for initiation of action against Deputy Charity Commissioner under the provisions of Contempt of Courts Act, 1971, alleging willful disobedience of the

order passed by this Court.

9. By order dated 6th April 2022, this Court after hearing the learned counsel for the petitioner *prima facie* observed that the Deputy Charity Commissioner had committed willful disobedience of the order passed by this Court and directed office to issue show cause notice upon the Deputy Commissioner, Latur Region, Latur to show cause as to why appropriate action under the Contempt of Courts Act read with Article 215 of the Constitution of India shall not be initiated against her and made it returnable on 27th April 2022.

10. In para 9 of the said order, however, this Court inadvertently issued notice upon respondent No. 2 (Original review petitioner). The office appears to have issued show cause notice accordingly also upon respondent No. 2. Mr. Salunke, learned counsel for respondent No. 2 rightly pointed out that respondent No. 2 has not committed any contempt of the order passed by this Court and that the office issued the show cause notice upon his client because of the inadvertent error committed by this Court in para 9 of the order.

11. The Deputy Charity Commissioner has filed affidavit in reply. In para 13 of the affidavit in reply, the Deputy Charity Commissioner has stated that there was confusion in her mind that if

change report is already objected and contested one, objector strongly objected for provisional acceptance of Change Report 596/2021. The Deputy Charity Commissioner has tendered unconditional apology and stated that the impugned order came to be passed without any malice. The Deputy Charity Commissioner stated that if this Court permits her to correct the said order in accordance with the order of this Court passed on 14th March 2022, she will correct the said order.

12. The Deputy Charity Commissioner is present in the Court. She has requested to accept the unconditional apology with permission to withdraw the order in question in contempt proceedings. We accept the unconditional apology tendered by the Deputy Charity Commissioner and allow her to withdraw the order which is the subject matter of contempt petition. We also direct the Deputy Charity Commissioner to decide the matter on its merit.

13. The Deputy Charity Commissioner is directed to pass a fresh order within two weeks from today. It is made clear that merely because this Court has directed the Deputy Charity Commissioner to accept change report submitted by the petitioner on provisional basis under section 22 (2) of the Act, that would not mean a direction to accept the change report submitted by the petitioner without going into merits and also the maintainability of the change report submitted

by the respondents. The Deputy Charity Commissioner shall consider the objections that are already raised by the objectors and that would be raised during the argument and shall pass order in accordance with law on the said provisional change report, on its merit.

14. It is made clear that directions issued under this order does not adjudicate the rival contentions of the parties on merits. The contempt petition is disposed of in aforesaid terms.

15. The application made by Mr. R.N. Dhorde, learned Senior Counsel for the intervenor in Writ Petition No. 2421/2022 for stay to the operation of the order passed by this Court is vehemently opposed by Mr. N.P. Patil-Jamalpurkar, learned counsel for petitioner in writ petition as well as petitioner in the contempt petition. This Court has disposed of the contempt petition on the basis of unconditional apology tendered by the Deputy Charity Commissioner before this Court and requesting for permission to withdraw the order under contempt. The question of staying this order does not arise. Therefore, the application for stay is accordingly rejected.

[S.G. MEHARE, J.]

[R. D. DHANUKA, J.]

ssc/